

REMARKS

STATUS SUMMARY

Claims 1 – 24 are pending in the present application. Claims 1 – 24 presently stand rejected. Claims 12 – 17 and 22 have been amended herein. Claims 1 – 11, 18- 21, 23 and 24 have been canceled herein without prejudice. Claims 25 – 48 have been added herein.

CLAIM REJECTIONS – 35 U.S.C. § 102

Claims 1, 9 – 11, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,953,932 to Mihich (hereinafter “Mihich”). Applicants respectfully submit that claims 1, 9 – 11, and 23 are clearly patentable over Mihich. However, Applicants have canceled claims 1, 9 – 11, and 23 without prejudice and therefore the rejection is moot.

CLAIM REJECTIONS – 35 U.S.C. § 103

Claims 12, 13, 18, 19, 21 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Document JP 358072108A (hereinafter “Matsui”). The Examiner contends that Matsui discloses an optical device with all the limitations set forth in the claims except for the use of a base and a mounting member. The Examiner further contends that the use of a base and a mounting member in optical switching art is well known and common.

As to each rejected claim, Applicants respectfully traverse this rejection because no suggestion or motivation has been shown in Matsui for modifying or combining Matsui as proposed by the Examiner, with any reasonable expectation of success, and Matsui fails to teach or suggest the subject matter recited. Applicants respectfully submit that independent claim 12 as originally filed is patentable over Matsui. It is believed that it is not obvious to provide an

apparatus comprising an optical channel selection device structured as claimed as well as separate fiber-optic return lines including ends mounted as claimed, all of which are structurally referenced to a base. Such an apparatus as a unit can be incorporated into a wide variety of suitable optics-based systems and serve to both send optical signals to a location and return optical signals from a location. Matsui does not appear to teach an apparatus capable of separately sending and returning optical signals.

Nonetheless, claim 12 has been amended to clarify the scope of the invention being claimed therein. Claim 12 is generally directed to an “apparatus for selectively routing optical signals over one or more optical channels to and from one or more sample test sites.” As a general matter, the components, elements or features recited in claim 12 enable the apparatus to be provided as a modular unit that can be incorporated into a sample test system, especially a system in which optical paths are utilized to carry optical information. As one example (albeit not a limitation on the scope of claim 12), Figure 9 of Applicants’ specification illustrates an apparatus (10’) employed as part of a system that includes a light source (210), test sites ($F_1 - F_n$), and a sample detector (SD). As another example, the apparatus could be incorporated into a spectrophotometer or other type of sample analyzing system. *See generally* Applicants’ specification at p. 11, lines 28 – 31; and p. 28, line 22, to p. 23, line 4.

Claim 12 recites “an optical channel selection device supported by the base” and “rotatable for aligning the internal fiber output end with a selected one of a plurality of available optical channels whereby an optical signal can be transmitted to a test site corresponding to the selected optical channel”. Claim 12 also recites “a mounting member supported by the base”. Claim 12 further recites “a plurality of fiber-optic return lines corresponding to the optical channels, each return line including a return line input end for receiving an optical signal from a

test site and a return line output end fixedly supported by the mounting member for transmitting an optical signal to a signal receiving device.” It thus can be seen that the apparatus recited in claim 12 provides a base upon which components are mounted for selecting an optical channel over which an optical signal can be sent to any suitable test site, as well as for collecting optical signals returned from a test site at a mounting member at which fiber ends are fixed and hence can be aligned with any suitable receiving device.

Matsui, as shown in the drawings of this reference, appears to teach only components for transmitting an optical signal to or from one location, but not both. That is, the device illustrated in the drawings of Matsui could be used to send an optical signal from one location to another, or to return an optical signal from one location to another, but could not provide separate send and return optical paths.

Claim 13 depends from claim 12 and has been amended for the sole purpose of better conforming to claim 12, and not in response to a substantive rejection or for any purpose believed to relate to patentability. Claim 13 is therefore patentable at least for the same reasons as claim 12.

Claims 18, 19, 21 and 24 have been canceled herein, and therefore the rejection to these claims is moot.

In view of the foregoing, Applicants respectfully submit that claims 12 and 13 are patentable under 35 U.S.C. § 103(a) over Matsui, and therefore request that the rejection to claims 12 and 13 be withdrawn.

CLAIM REJECTIONS – DOUBLE PATENTING

Claims 2, 3 – 5, 6 – 7, 8, and 14 – 17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6, 5, 14, 5, and 3, respectively, of U.S. Patent No. 6,611,334. Claims 20 and 22 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 16 of U.S. Patent No. 6,611,334.

In response, Applicants file herewith a terminal disclaimer in accordance with 37 CFR 1.321(c). Applicants further note that claims 2, 3 – 5, 6 – 7, 8, and 20 have been canceled herein without prejudice. In view of the terminal disclaimer, Applicants respectfully submit that the rejection of claims 2, 3 – 5, 6 – 7, 8, 14 – 17, 20, and 22 based on double patenting is now overcome, and request that this rejection be withdrawn.

OTHER CLAIM AMENDMENTS

Apart from the amendments specifically discussed hereinabove, the following is a summary of other claim amendments. These other amendments are believed to be supported by the application as originally filed. Accordingly, no new matter is believed to have been added.

Claims 14 – 17 and 22 have been amended for the sole purpose of better conforming to claim 12, and not in response to a substantive rejection or for any purpose believed to relate to patentability.

NEW CLAIMS

New claims 25 – 48 have been added, and are believed to be fully supported by the present application as originally filed. Accordingly, no new matter is believed to have been added. New claims 25 – 48 are believed to be patentable over all prior art references of record. Accordingly, Applicants respectfully request entry and allowance of new claims 25 – 48.

CONCLUSION

In light of the above amendments and remarks, it is respectfully submitted that the present application is now in proper condition for allowance, and an early notice to such effect is earnestly solicited.

If any small matter should remain outstanding after the Patent Examiner has had an opportunity to review the above Remarks, the Patent Examiner is respectfully requested to telephone the undersigned patent attorney in order to resolve these matters and avoid the issuance of another Official Action.

Respectfully submitted,

THE ECLIPSE GROUP

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